

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

WILLIAM DAVIS, III)	
)	
Plaintiff,)	C.A. No. 04-CV-209 SLR
)	
v.)	
)	
FIRST CORRECTIONAL MEDICAL,)	TRIAL BY JURY OF
INC., et al.,)	TWELVE DEMANDED
)	
Defendants.)	

**DEFENDANT FIRST CORRECTIONAL MEDICAL'S
MOTION FOR SUMMARY JUDGMENT**

NOW COMES, Defendant First Correctional Medical in the above matter and alleges that there is no issue of material fact and requests that the Court Enter Judgment in its favor pursuant to Fed.R.Civ.P. 56. In support hereof, defendant offers the following:

1. To prevail in his claims against First Correctional Medical, the plaintiff must demonstrate First Correctional Medical had a policy or custom that demonstrates deliberate indifference to a serious medical need. See Whalen v. Correctional Medical Service, 2003 WL 21994752 (D.Del.) attached as exhibit A.
2. Plaintiff seems to allege various dates of events that he thinks support his claim for deliberate indifference to a serious medical need. However, First Correctional Medical did not begin its contract to provide medical services to the State of Delaware prison systems until July 1, 2002.

3. Plaintiff has admitted that he received medical care through examinations, medications, and diagnostic tests through July, August, and September 2002. See Requests for Admission attached as exhibit B.¹
4. Plaintiff has also admitted that he has no evidence of a First Correctional Medical policy or custom of deliberate indifference to a serious medical need. See Request for Admission Number 29.
5. As the plaintiff has no evidence of a First Correctional Medical policy or custom of deliberate indifference (indeed the medical care provider supplied the plaintiff with numerous diagnostic tests, medications, evaluations, and a surgery by an outside physician at St. Francis Hospital on September 5, 2002) and cannot produce any facts to support his claims, defendant is entitled to judgment in its favor.

WHEREFORE, Defendant First Correctional Medical requests that the Complaint against it be dismissed with prejudice.

Respectfully submitted,

Heckler & Frabizzio, P.A.



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Dated: AUGUST 29, 2008
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¹ The Plaintiff has failed to respond to the Requests for Admissions and pursuant to Court Order of August 12, 2008, (D.I. 106) they are deemed admitted.